

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TELEBRANDS CORP.,

Plaintiff

v.

AM DEVOTEE STORE, ATRIH NINGBO IMPORT & EXPORT CO., LTD., AUTOMOBILE AD MOTORCYCLE PARTS STORE, AUTOS DROPSHIPPING'S STORE, BENGBU HANYU NEW ENERGY TECHNOLOGY LIMITED, BRAND-NEW WAY STORE, CAR 999 STORE, CAR ACCESSORIES DISCOUNT STORE, CAR CAR CAR!!! STORE, CAR TOOL STORE, CAR WITH YOU STORE, CHANGSHU JUHAO CLEAN TEXTILE CO., LTD., COOLEST-TOPEST STORE, DONGGUAN ZHONGSEN NEW MATERIAL CO., LTD., DROP SHIPPING CAR ACCESSORIES STORE, FANTASTICCAR STORE, GOOD COMFORTABLE STORE, HANGZHOU JIUZE TECHNOLOGY CO., LTD., HANGZHOU MOSHENG TEXTILES CO., LTD., HD-CAR STORE, HELIUS 777 STORE, HENAN HUAXIN IMPORT & EXPORT TRADE CO., LTD., HENAN RUOZHEN TRADING CO., LTD., HONDAR MACHINERY CO., LTD., JANNEY ILLIMITABLE AMPLIFY STORE, LIGHT OF EC CHINA STORE, LUNA'S CAR HOUSE STORE, MOSTEST STORE, NINGBO FINE LIFE PRODUCTS INTL TRADING CO., LTD., NINGBO KINGWORTH GLOBAL IMP. & EXP. CO., LTD., NINGBO SONGXING METAL CO., LTD., NINGBO SUNAIR HOUSEWARE CO., LTD., NINGBO XINKE INDUSTRIAL & TRADING CO., LTD., ONLINE CAR STORE, PROFESSION PICK STORE, PROMETHEUSS 777 STORE, RYAN-CAR STORE, SHAOXING JINYI TRADING CO., LTD., SHENZHEN FUYUAN GIFT LTD., SHOP5123097 STORE, SHOP5497252 STORE, SHOP5777765 STORE, SHOP5797644 STORE, SHOP5800663 STORE, SHOP5873953 STORE, SHOP910316358

**CIVIL ACTION No.
20-cv-9775 (AKH)**

**FINAL DEFAULT JUDGMENT
AND PERMANENT
INJUNCTION ORDER**

STORE, SILVER MOO STORE, STEAM FRICTION STORE, TO BE PROFESSIONAL STORE, WORTHWHILE DECISION STORE, WUHAN RUIYU TENGFEI TRADING CO., LTD., YIWU HONGYI COMMODITY PURCHASING CO., LTD. and YIWU XIAOHUA HOUSEHOLD GOODS FACTORY,

Defendants

This matter comes before the Court by motion filed by Plaintiff Telebrands Corp. (“Plaintiff” or “Telebrands”) for the entry of final judgment and permanent injunction by default against the Defaulting Defendants identified on the attached Schedule A. I find Defaulting Defendants liable for trademark infringement, trademark counterfeiting, copyright infringement, false designation of origin, passing off and unfair competition and related state and common law claims arising out of Defaulting Defendants’ unauthorized use of U.S. Trademark Registration No. 5,504,815 for “EGG SITTER” for goods in Class 20 (“Egg Sitter Mark”) and/or U.S. Copyright Reg. Nos.: PA 2-105-246 covering the Egg Sitter Commercial, TX 8-543-342 covering the Egg Sitter Instruction Manual, VA 2-094-755 covering the Egg Sitter Packaging and VA 2-150-425 covering the Egg Sitter Website (“Egg Sitter Works”) without limitation, in their manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying or offering for sale and/or selling and/or sale of products bearing or used in connection with the Egg Sitter Mark and/or Egg Sitter Works, and/or products in packaging and/or containing labels and/or hang tags bearing the Egg Sitter Mark and/or Egg Sitter Works, and/or bearing or used in connection with marks and/or artwork that are confusingly or substantially similar to the Egg Sitter Mark and/or Egg Sitter Works and/or products that are identical or confusingly or substantially similar to the Egg Sitter Product (“Counterfeit Products”). *Finkel v. Romanowicz*, 577 F.3d 79, 83 n. 6 (2d Cir. 2009) (Explaining that a default constitutes an admission of all well-pled factual allegations in the complaint, and that the allegations, as they pertain to liability, are deemed true.).

The Court, having considered the Memorandum of Law and Affidavit of Danielle (Yamali) Futterman (Dkt. 38) in support of Plaintiff’s Motion for Default Judgment (Dkts. 37-39) against the Defaulting Defendants identified on Schedule A, the Certificate of Service of the Summons and Complaint, the Certificate of the Clerk of the Court stating that no answer has been filed in

the instant action, and upon all other pleadings and papers on file in this action, it is hereby ORDERED as follows:

I. Defaulting Defendants' Liability

1) Judgment is granted in favor of Plaintiff on all claims properly pled against the Defaulting Defendants identified on Schedule A in Plaintiff's Complaint filed on November 20, 2020 (Dkt. 5) ("Complaint");

II. Damages Awards

1) IT IS FURTHER ORDERED that because it would serve both the compensatory and punitive purposes of the Lanham Act's prohibitions on trademark counterfeiting and infringement and the Copyright Act's prohibitions on willful infringement, and because Plaintiff has sufficiently set forth the basis for the statutory damages award requested in its Motion for Default Judgment, the Court awards Twenty-Five Thousand Dollars (\$25,000.00) ("Defaulting Defendants' Individual Damages Award") in statutory damages against each of the Thirty-Three (33) Defaulting Defendants identified on Schedule A pursuant to 15 U.S.C. § 1117(c) of the Lanham Act and/or 17 U.S.C. § 504 of the Copyright Act, as well as post-judgment interest at the statutory rate set forth in 28 U.S.C. § 1961(a).

III. Permanent Injunction

1) IT IS FURTHER ORDERED that the Defaulting Defendants identified on Schedule A, their respective officers, agents, servants, employees, and all persons acting in concert with or under the direction of Defaulting Defendants identified on Schedule A (regardless of whether located in the United States or abroad), who receive actual notice of this Order are permanently enjoined and restrained from:

A. manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in Counterfeit Products

or any other products bearing the Egg Sitter Mark and/or Egg Sitter Works and/or marks and/or artwork that are confusingly or substantially similar to, identical to and constitute a counterfeiting and/or infringement of the Egg Sitter Mark and/or Egg Sitter Works;

B. directly or indirectly infringing in any manner Plaintiff's Egg Sitter Mark and/or Egg Sitter Works;

C. using any reproduction, counterfeit, copy or colorable imitation of Plaintiff's Egg Sitter Mark and/or Egg Sitter Works to identify any goods or services not authorized by Plaintiff;

D. using Plaintiff's Egg Sitter Mark and/or Egg Sitter Works, or any other marks that are confusingly similar or substantially similar to the Egg Sitter Mark and/or Egg Sitter Works on or in connection with the manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in the Counterfeit Products;

E. secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with Counterfeit Products.

F. effecting assignments or transfers, forming new entities or associations, or creating and/or utilizing any other platform, User Accounts, Merchant Storefronts or any other means of importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products for the purposes of circumventing or otherwise avoiding the prohibitions set forth in this Order.

2) IT IS FURTHER ORDERED that the Defaulting Defendants identified on Schedule A must deliver up for destruction to Plaintiff any and all Counterfeit Products and any and all

packaging, labels, tags, advertising and promotional materials and any other materials in the possession, custody or control of such Defaulting Defendants that infringe any of Plaintiff's trademarks, or other rights including, without limitation, the Egg Sitter Mark and/or Egg Sitter Works and/or artwork that are confusingly or substantially similar to the Egg Sitter Mark and/or Egg Sitter Works pursuant to 15 U.S.C. § 1118;

IV. Dissolution of Rule 62(a) Stay

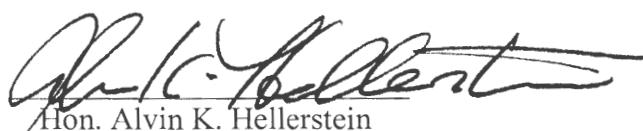
- 1) IT IS FURTHER ORDERED, as sufficient cause has been shown, the 30 day automatic stay on enforcing Plaintiff's judgment, pursuant to Fed. R. Civ. Pro. 62(a) is hereby dissolved.

V. Miscellaneous Relief

- 1) The Defaulting Defendants identified on Schedule A may, upon proper showing and two (2) business days written notice to the Court and Plaintiff's counsel, appear and move for dissolution or modification of the provisions of this Order concerning the restriction or restraint of Defaulting Defendants' Frozen Assets;
- 2) Any failure by the Defaulting Defendants identified on Schedule A to comply with the terms of this Order shall be deemed contempt of Court, subjecting such Defaulting Defendants to contempt remedies to be determined by the Court, including fines and seizure of property;
- 3) The Court releases the Five Thousand U.S. Dollar (\$5,000.00) security bond that Plaintiff submitted in connection with this action to counsel for Plaintiff, Epstein Drangel, LLP, 60 East 42nd Street, Suite 1250, New York, NY 10165; and
- 4) This Court shall retain jurisdiction over this matter and the parties in order to construe and enforce this Order.

SO ORDERED.

Date: March 29, 2023



Hon. Alvin K. Hellerstein

SCHEDULE A

1. AM devotee Store
2. Atrih Ningbo Import & Export Co., Ltd.
3. Bengbu Hanyu New Energy Technology Limited
4. Brand-new Way Store
5. Car accessories discount Store
6. Car Tool Store
7. Changshu Juhao Clean Textile Co., Ltd.
8. coolest-topest Store
9. Dongguan Zhongsen New Material Co., Ltd.
10. FantasticCar Store
11. Hangzhou Mosheng Textiles Co., Ltd.
12. Henan Ruozhen Trading Co., Ltd.
13. HONDAR MACHINERY CO., LTD.
14. Light Of EC China Store
15. Luna's Car House Store
16. MOSTEST Store
17. Ningbo Finelife Products Intl Trading Co., Ltd.
18. Ningbo Songxing Metal Co., Ltd.
19. Ningbo Xinke Industrial & Trading Co., Ltd.
20. Online Car Store
21. Profession Pick Store
22. Prometheuss 777 Store
23. RYAN-CAR Store
24. Shaoxing Jinyi Trading Co., Ltd.
25. Shenzhen Fuyuan Gift Ltd.
26. Shop5123097 Store
27. Shop5497252 Store
28. Shop5777765 Store
29. Shop5797644 Store
30. Shop910316358 Store
31. Steam friction Store
32. TO BE PROFESSIONAL Store
33. Yiwu Xiaohua Household Goods Factory